

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
v.)	Crim. No. 13-10200-GAO
)	
DZHOKHAR A. TSARNAEV,)	<u>UNDER SEAL</u>
Defendant)	

**GOVERNMENT'S SUPPLEMENTAL MEMORANDUM IN SUPPORT
OF ITS MOTION IN LIMINE TO EXCLUDE EXHIBITS 3200 AND 3200a**

Exhibits 3200 and 3200a purport to be text messages from Zubeidat Tsarnaeva to Rizvan Mamakayev and translations of those text messages, respectively. Tsarnaev intends to offer them for the truth of the matters asserted in them.

The government has already moved to exclude these alleged emails as irrelevant and likely to confuse and mislead the jury, in part because Tsarnaev cannot show that they are what they purport to be.

The alleged emails should also be excluded because Zubeidat Tsarnaeva is an available witness and, if called to the stand, would deny the truth of the matters asserted in the emails or at least seek to explain them and put them into context.

Ms. Tsarnaeva is a United States citizen. She needs no visa or parole to enter the country. As a United States citizen, her attendance in Court can be compelled by trial subpoena even if she is in a foreign country. 28 U.S.C. § 1783.

As Tsarnaev knows, Ms. Tsarnaeva has consistently denied that she is a violent extremist or played any role in persuading or encouraging Tamerlan Tsarnaev to become a violent extremist. Under those circumstance, permitting Tsarnaev to offer the alleged emails into evidence, rather than examining her on the stand and attempting to impeach with the alleged emails, would create a substantial and unnecessary risk of misleading the jury and confusing the

issues.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that this document will be served by electronic mail on Dzhokhar Tsarnaev's attorney, Judy Clarke, Esq., on April 29, 2015.

/s/ William D. Weinreb
STEVEN D. MELLIN